



California Department of Public Health
MEMORANDUM

DATE: August 6, 2009

TO: Theresa Aguilar Finger
Special Projects Manager, MBA/TM, C.P.A.
Secretary of State
1500 – 11th Street, 6th Floor
Sacramento, California 95814

FROM: Kathleen M. Keeshen 
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MS 0505

SUBJECT: Secretary of State's Proposed Regulations to add Chapter 15
(Trustworthy Electronic Document or Record Preservation) to Title 2 of
Division 7 of the California Code of Regulations.

The purpose of this memo is to express the California Department of Public Health's (CDPH) comments and concerns regarding the Secretary of State's proposed regulations to add Chapter 15 (Trustworthy Electronic Document or Record Preservation) to Title 2 of Division 7 of the California Code of Regulations. The proposed regulations (Section 23020(b)) apply where the intent is to destroy the original hardcopy and maintain an electronic version as the official record. Although CDPH's Office of Vital Records (OVR) has not yet transitioned to a paperless process, it will likely make that transition over the next five to ten years.

CDPH's concerns are as follows:

1. Government Code Section 12168.7(b) requires the Secretary of State, in consultation with the Department of General Services, to adopt standards established by the American National Standards Institute (ANSI) or the Association for Information and Image Management (AIIM) for storing and recording permanent and nonpermanent documents in electronic media. Government Code Section 12168.7(c) specifies that these standards shall apply to county government offices, including the Board of Supervisors, County Recorders, County Auditors, County Treasurers, social service agencies; city government offices; special districts; and the State Registrar of Vital Statistics (CDPH). Government Code Section 12168.7(c) also requires that the standards include a trusted system defined as "a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the document that is originally stored."

CONCERN:

The Secretary of State's proposed regulations go beyond the statute by requiring standards that meet or exceed the recommendations of not only AIIIM or ANSI but also ISO (Section 23020(d), 23050, 23060, 23070, 23080).

2. The proposed regulations require adherence to standards that are in documents incorporated by reference that do not include revision dates (Sections 23060, 23070, 23080).

CONCERN:

If these documents change in the future, CDPH may fall out of compliance without having an opportunity to comment on the change in standard. Changes in standards may be difficult to comply with and could result in significant costs to the Department to implement.

3. Section 23010 of the proposed regulations specifies that the purpose of the regulations is to list minimum standards or guidelines. Section 23020 specifies that the lack of adoption of a particular standard in this chapter does not preclude the use of other standards so long as they meet or exceed the recommendations of AIIIM, ANSI, or ISO.

CONCERN:

The proposed regulations contain conflicting requirements. Section 23080 requires the use of PDF/A. This contradicts the stated purpose (20310) and the statement that the chapter does not preclude the use of other standards (23020). Section 23060 requires that only those compression technologies identified in ISO 12033 shall be used.

4. Costs to CDPH to convert to PDF/A.

CONCERN:

The adoption of the new PDF/A standard would require a re-engineering and possible re-procurement of CDPH's Office of Vital Record's (OVR) current enterprise image repository. In addition, the systems designed to "feed" and "retrieve and/or redact" the image repository would also need to be redesigned. Finally, the images currently in the electronic repository would need to be converted when paperless processes start or the decision to destroy paper documents is made. Based on CDPH's past history with conversion and imaging projects the estimated costs associated with an undertaking of this size would be in the range of \$5 to \$10 million dollars and take at least 5 years to complete. These costs would have to be paid by fee increases, which would have to be approved by the Legislature via the Budget Act.